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ATTORNEY FOR PLAINTIFF
UNITED STATES OF AMERICA

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

UNITED STATES OF AMERICA,	CR 16-18-GF-BMM
Plaintiff,	
vs.	OFFER OF PROOF
GARY JOSEPH CONTI,	
Defendant.	

Plaintiff, United States of America, by and through its counsel of record,
Bryan T. Dake, Assistant U.S. Attorney for the District of Montana, hereby files its
Offer of Proof.

THE CHARGE

The defendant, Gary Joseph Conti, was charged by Indictment with Escape,

in violation of 18 U.S.C. § 751.

PLEA AGREEMENT

The defendant, Gary Joseph Conti, has stated he will enter a guilty plea to the single count in the Indictment. (Doc 15.) There is not a plea agreement between the parties. The United States presented any and all formal plea offers to the defendant in writing. The motion for change of plea filed with the Court represents, in the government's view, the most favorable disposition of the case against the defendant. *See e.g., Missouri v. Frye*, 132 S. Ct. 1399 (2012).

ELEMENTS

In order for the defendant, Gary Joseph Conti, to be found guilty of Escape, in violation of 18 U.S.C. § 751, as charged in the Indictment, the United States must prove each of the following elements beyond a reasonable doubt,

First, the defendant was in the custody of the Attorney General of the United States, Bureau of Prisons;

Second, the defendant was serving a sentence of imprisonment entered in a Judgment of conviction for felony crimes and sentence imposed for those felony crimes in the United States District Court for the District of Montana, Great Falls Division, in *United States v. Conti*, CR 13-65-GF-BMM,; and,

Third, the defendant knowingly and voluntarily left custody without permission.

PENALTY

The single count in the Indictment (escape) carries a maximum penalty of five years imprisonment, up to a \$250,000 fine, three years of supervised release, and a \$100 special assessment.

ANTICIPATED EVIDENCE

If this case were tried in United States District Court, the United States would prove the following:

Gary Joseph Conti was indicted on July 18, 2013, in *United States v. Conti*, CR 13-65-GF-BMM . Conti was found guilty on count 29 – bankruptcy fraud – on March 7, 2014. A mistrial was declared on all other counts and Conti was re-tried. At the retrial, Conti was found guilty on 26 of the remaining 27 felony counts on May 22, 2014.

Conti was sentenced on October 28, 2014. Judgment was subsequently entered on October 28, 2014, and Conti was committed to the custody of the United States Bureau of Prisons for a term of 60 months on each count, to run concurrent.

Conti's subsequent motions for release pending appeal were denied and he began serving his sentence at the minimum security component of FCI Englewood (Colorado) on April 30, 2015. His convictions were affirmed in one published opinion and a second unpublished memorandum on October 21, 2015. *See United States v. Conti*, 804 F.3d 977, 979 (9th Cir. 2015).

On October 30, 2015, Conti walked away from FCI Englewood. At approximately 12:45 pm, an unidentified inmate informed FCI Englewood officials that Conti could not be found. At approximately 2:20 pm, an emergency bed count was conducted at FCI Englewood. The count revealed that Conti was not in his assigned cell. An interior and exterior search of the facility was conducted and Conti was not found. At approximately 4:09 pm, Conti was placed on escape status.

Evidence suggests that Conti made his way from Colorado to Butte and then to Bozeman over the next few days. On October 31, 2015, the Bozeman Police Department was advised that Conti was in the Bozeman area. Just after 1 a.m. the following day, Bozeman police officers spotted Conti in a stolen Jeep and gave chase on Interstate 90 headed east out of Bozeman toward Livingston, calling ahead for assistance from Park County authorities. Law-enforcement officers laid spike strips across the roadway. Conti swerved to avoid the spikes and crashed into a parked Park County patrol vehicle.

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The United States would have presented this evidence through the testimony of law enforcement and lay witnesses.

DATED this 2nd day of August, 2016.

MICHAEL W. COTTER
United States Attorney

/s/ Bryan T. Dake
BRYAN T. DAKE
Assistant U.S. Attorney
Attorney for Plaintiff